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Paper No. 12

THOMAS KAYDEN HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
SUITE 1750
ATLANTA, GA 30339-5948

COPY MAILED
OCT 15 2002
OFFICE OF PETITIONS

In re Application of
Ellis W. Patrick III
Application No. 09/778,754
Filed: February 8, 2001
Attorney Docket No. 08215-417001
CHL-026064

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(f) AND
:NOTICE RESETTING PERIOD FOR
:REPLY TO NONFINAL OFFICE
:ACTION

This is a decision on the petition filed September 16, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on June 19, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of January 9, 2003 accompanies this decision on petition.

There is no indication that a reply to the nonfinal Office action of September 23, 2002 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the nonfinal Office action of September 23, 2002 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2875 to await a reply to the September 23, 2002 nonfinal Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt